THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.10367 of 2005

Dated: 27th March, 2006

Between:

Chief General Manager Telecom,

BSNL, A.P Circle, Hyderabad – 500 001

& another. **..PETITIONER**

AND

Union of India rep by Secretary,

Ministry of Labour, Shrama Shakti Bhavan,

New Delhi – 110001 & 2 others.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.10367 of 2005

ORDER:

The petitioner/Bharat Sanchar Nigam Limited (for short BSNL), has filed this writ petition questioning the proceedings No.L-40012/105/2003-IR (DU), dated 5-3-

2004, issued by respondent No.1-Union of India, referring the dispute raised by respondent No.3 to the Industrial Tribunal, Hyderabad, for adjudication within a period of three months therefrom, in exercise of their powers conferred on them by Clause (d) of sub-sections (1) and (2A) of Section 10 of the Industrial Disputes Act, 1947, as illegal and arbitrary.

The learned Standing Counsel for the petitioners submits that in view of the judgment dated 22-11-2000 of the Division Bench of this Court passed in W.P. No. 23456 of 1999 and batch, respondent No.1 committed an error in referring the dispute raised by respondent No.3/workman to the Industrial Tribunal, Hyderabad, for adjudication, and more so when the petitioners were directed to engage afresh, similarly placed workman like respondent No.3, as casual labourers, while holding that their regularization shall depend upon the future exigency, the scheme to be launched by the management, the suitability of the workmen, etc. He further submitted that in pursuance of the above judgment, respondent No.3 and similarly placed workmen are continuing as casual labourers afresh, and as no person junior to respondent No.3 or similarly placed workman was engaged, there was no need for respondent No.1 to refer the dispute raised by respondent No.3 to the Industrial Tribunal, Hyderabad, for adjudication.

It is submitted by the Assistant Solicitor General representing respondent Nos. 1 and 2 and admitted to by the learned counsel for the petitioners that the dispute referred by respondent No.1 is already under adjudication before the Industrial Tribunal, Hyderabad.

Inasmuch as the Industrial Tribunal, is seized of the dispute raised by respondent No.1 and referred to by respondent Nos. 2 and 3, it is not proper for this Court to express any opinion on the merits or otherwise of the reference of the dispute namely,
Whether the action of the management of M/s BSNL, Karimnagar and Hyderabad in not regularizing the services of Sh.M.Mahender Reddy, Casual Mazdoor working with effect from 20-11--2000 when his juniors were regularised and promoted to the next posts is justified or not? If not to what relief the applicant is entitled for. However, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioners are at liberty to bring to the notice of the Industrial Tribunal, Hyderabad, which is seized of the dispute raised by respondent No.3 and referred by respondent No.1, the judgment dated 22-11-2000 of the Division Bench of this Court made in W.P. No. 23456 of 1999 and batch, and other relevant material, and raise all their pleas, which they have raised in this writ petition, for effective and proper adjudication of the dispute and for passing appropriate orders.

With the above observation, the writ petition is disposed of. No costs.

_____

(N.V. RAMANA, J.)

Date: 27th March 2006.

GRK